

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-42374-2017 (O&M)

Date of decision : 02.07.2019

Sukhdev Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajiv Joshi, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

ANIL KSHETARPAL, J. (ORAL)

Although, petition under Section 482 of the Code of Criminal Procedure has been filed seeking quashing of the FIR as well as order declaring the petitioner proclaimed person, however, during the course of arguments, learned counsel for the petitioner restricted relief to the validity of the order (Annexure P-5) by which the petitioner was declared proclaimed person. It has been contended that the proclamation against the petitioner was issued/published on 05.08.2017 directing the petitioner to appear before the Court on 18.08.2017, although as per Section 82 of the Code of Criminal Procedure, such period could not be less than 30 days from the date of publication of such proclamation.

Learned counsel has drawn attention of the Court to the order dated 18.08.2017 where this fact is duly noticed by the learned Judicial Magistrate, Ist Class. However, rather than ordering fresh publication, the Court adjourned the case for the period beyond the period of 30 days. He submits that such procedure adopted by the trial Court was not in consonance

with Section 82 of the Code of Criminal Procedure. He has also relied upon judgment passed by this Court in the case of **Ashok Kumar Vs. State of Haryana and another, 2013(4) RCR (Criminal) 550.**

On the other hand, learned counsel for the State has submitted that the petitioner was granted more than 30 days time for appearance and, therefore, there is no illegality in the order.

On careful reading of Section 82(1) of the Code of Criminal Procedure, it is apparent that publishing of proclamation requiring the person to appear at a specified place and at a specified time is required to be not less than 30 days from the date of publishing. In the present case, publication of proclamation for appearing at a specified place and at a specified time was less than period of 30 days. Such defect in publication of proclamation could not be cured by adjourning the case. The Court was required to get the proclamation published again in consonance with the requirement of law. Still further, in any case, the purpose of proclamation is to secure the presence of the accused.

Counsel for the petitioner undertakes that petitioner would appear before the trial Court.

In view thereof, order (Annexure P-5) dated 08.09.2017 is set aside subject to the condition that the petitioner would appear before the trial Court within a period of six weeks from today.

Accordingly, the present petition is disposed of.

02.07.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No